IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5528 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

and

Hon'ble MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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BENGAL TEA AND FABRICS LTD

Versus

UNION OF INDIA

Appearance:

MR DV PARIKH for Petitioner.

MR DN PATEL for Respondents.

CORAM : MR.JUSTICE M.S.SHAH

and

MR.JUSTICE K.A.PUJ

Date of decision: 09/07/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

Rule. Mr. D.N. Patel, learned Senior Central

Government Standing Counsel waives service of Rule for the respondents.

2. By this petition under Article 226 of the Constitution, the petitioner as proprietor of M/s. Asarwa Mills, Ahmedabad, has challenged the orders dated 27th December 2001 and 26th April 2002 passed by the Customs, Central Excise and Gold (Control) Appellate Tribunal, (hereinafter be referred to as "CEGAT"), Mumbai on the petitioner's stay application and Miscellaneous Application respectively for interim stay in the appeal pending before the CEGAT.

3. In the peculiar facts and circumstances of the case, and particularly in view of the fact that a group of appeals, involving identical controversy about the valuation of yarn captively consumed, is coming up for hearing before the CEGAT on 30th and 31st July 2002, it would be just and proper, and interests of justice would be served if the petition is disposed in terms of the following directions:

(i) The petitioner shall deposit with the respondents a sum of Rs. 1,50,000/= over and above the sum of Rs. 2,50,000/= deposited by the petitioner towards the demand in question. The amount shall be deposited by 22nd July 2002.

(ii) Upon the aforesaid amount being deposited, the CEGAT, Mumbai, shall hear the petitioner's appeals being Appeals No. E/301, 302 and 303/2001-Mum, along with the appeals of other assessees involving the same controversy about valuation of captively consumed yarn.

4. The petition is, accordingly, disposed of in terms of the aforesaid directions. Rule is made absolute to the aforesaid extent with no order as to costs.

5. The writ shall be sent to CEGAT, Mumbai, for which direct service will be taken by the petitioner.

[M.S. Shah, J.]

rmr. [K.A. Puj, J.]